

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA

vs.

No. 04-10217-GAO

DARREN WILDER,

Defendant.

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**GOVERNMENT'S PROPOSED
VOIR DIRE QUESTIONS**

Pursuant to Rule 24(a) of the Federal Rules of Criminal Procedure, the United States respectfully requests that the following voir dire questions be asked during jury selection, in addition to the standard questions asked by this Court in criminal trials.

Respectfully submitted,

MICHAEL SULLIVAN
UNITED STATES ATTORNEY

By: /s/Dana Gershengorn
Dana Gershengorn
Assistant United States Attorney
Sherri Stephan
Trial Attorney
U.S. Department of Justice

PROPOSED VOIR DIRE QUESTIONS

1. Are you able to understand, speak, read and write the English language?
2. Do you have any health problem that might prevent you from serving on a jury? If yes, please explain.
3. What is the highest grade that you completed in school including any trade or technical school? If you attended college, what college did you attend, and in what field or subject did you major? What degree did you earn?
4. How are you currently employed? If you are retired or unemployed, what was your occupation or employment before your retirement or unemployment?
5. Do you have any supervisory responsibilities in your job? If yes, please explain your supervisory duties and responsibilities.
6. Are you married? If you are married, how is your spouse employed? If divorced, how is your ex-spouse employed?
7. If you have children, please state their age and sex, and if they are over 18, whether and where they are employed, or whether and where they attend school.
8. Please describe any social, political, civic, community or religious groups or organizations which you participate in, and whether you have held any leadership roles in them
9. Have you or your spouse ever had any legal training? If yes, please tell us about that training.

10. Have you ever served on a jury in either federal or state court? If so, was it a civil or criminal case? Did that jury reach a verdict? Were you the foreperson of that jury? Have you ever served on a grand jury?
11. Have you ever been a witness in a criminal case or a witness before a grand jury? What were the circumstances? Would that experience make it difficult in any way for you to serve as a fair and impartial juror in this case?
12. Have you or any family member ever held a job with any federal, state or local law enforcement agency? If yes, please describe who held the position, the agency and the time period the position was held.
13. Have you ever applied to any federal, state or local law enforcement agency for a job? If yes, please describe the position you applied for, and the result or status of your application. Was there anything about that process that would prejudice you for or against law enforcement?
14. Have any of you had any experience with a government agency that would cause you to be prejudiced for or against the government? In particular, this case was investigated by the Immigration and Customs Enforcement Agency and the U.S. Department of Justice. Does any prospective juror have any particular concern or problem with either of these agencies?
15. Have you, your relatives or close friends ever been arrested, charged with a crime, or convicted of a crime? If

any potential juror answers this questions in the affirmative, the government respectfully requests that the Court question the potential juror regarding the circumstances, in private, at the bench, so as to avoid embarrassment to the potential juror.

16. Have you or any of your relatives or close friends been the victim of a crime? If yes, what type of crime? Were you satisfied with the way the matter was handled by the police or law enforcement agency? the prosecutors? the courts?
17. Have you or a close family member ever had, or do you now have, a case or claim against, or dispute with, the United States or any of its agencies or departments? Is there anything about that proceeding that you found upsetting or troubling in any way?
18. Do you or any member of your family have specialized computer training?
19. Do you or any member of your family regularly access any Newsgroups on the Internet? If yes, which Newsgroups do you/they access?
20. Do any of you believe that the Internet should be completely unregulated, such that anything that is said or done on the Internet should remain private?
21. Do you have any knowledge of, or experience with, saving or downloading picture files in, or retrieving picture files

from, a computer?

22. Do you have any experience with attaching a picture file to an e-mail?
23. Do you have any experience with obtaining image files from the Internet or transferring image files over the Internet?
24. The Indictment in this case contains three counts. Count 1 charges that the defendant transported child pornography. Count 2 charges that the defendant received or attempted to receive child pornography. Count 3 charges that the defendant possessed child pornography. The knowing transportation, receipt and possession of child pornography are all crimes. Is there anything about that legal principle that you find upsetting or troubling in any way?
25. The United States Supreme Court has held that the First Amendment does not cover child pornography. Would following this legal rule cause you problems in sitting as a juror in this case?
26. In this case, the charges concern the subject of child pornography. Does any prospective juror have any concern with the laws governing child pornography? Do any of you believe that the mere possession in one's home of child pornography should be legalized in some or all circumstances?
27. Do you feel that the government has gone too far in

regulating pornographic materials depicting children, such as through undercover operations?

28. The evidence in this case will include images of what the government alleges to be children involved in sexually explicit conduct. Do any of you believe that simply because of this subject matter, you would disregard the Court's instructions to you, and that it would be impossible to accept that this defendant is innocent until proven guilty beyond a reasonable doubt?
29. Your duty, as jurors, is to judge guilt or innocence based upon the evidence. It is the duty of the judge to determine punishment if you vote guilty. The law does not permit you to consider the issue of punishment because there are factors having nothing to do with this trial which will determine lenience or harshness. Is there anybody here who would vote "Not Guilty" no matter what the evidence indicates, merely because this crime may result in a prison sentence, even though you do not know whether it will or not?
30. Do each of you understand that regardless of any personal feelings or opinions you have about this case, that you must accept the law regarding it from the Court? Will each of you follow this rule? If you were selected to sit as a juror in this case, would you be willing and able to render

a verdict based solely on the evidence presented and the law as the Court will give it to you in its instructions, disregarding any other ideas, notions or beliefs about the law that you may have encountered? If no, please explain.

31. The law requires that your verdict be based on the facts as you find them to be from the evidence. The law does not permit you to consider any emotion such as sympathy, prejudice, vengeance, fear or hostility. Does any prospective juror believe they would have difficulty following this rule?
32. Do any of you hold any philosophical, moral or religious belief which would make it difficult to sit in judgment on another human being?
33. If you were the Assistant United States Attorney charged with the responsibility of prosecuting this criminal case, or if you were the defendant, would you feel comfortable having someone like you as a juror? If no, please explain.

Respectfully submitted
For the United States

MICHAEL SULLIVAN
UNITED STATES ATTORNEY

By:/s/Dana Gershengorn
DANA GERSHENGORN
Assistant U.S. Attorney
SHERRI STEPHAN
Trial Attorney
U.S. Department of Justice